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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,722	09/06/2001	Stefan Grosse	10191/1728	9967

26646 7590 05/31/2005

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NEW YORK, NY 10004

EXAMINER

FULLER, ERIC B

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/831,722

Applicant(s)

GROSSE ET AL.

Examiner

Eric B. Fuller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-28,31 and 33-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-28 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 23,24,31,33 and 37-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant argues that the amendments filed March 14, 2005 overcome the rejections and objections of the previous Office Action. Examiner agrees and has withdrawn the rejections and objections of the previous Office Action, accordingly. Applicant's arguments are moot in view of the new grounds of rejection.

Applicant additionally alleges that Moisan does not teach a launching structure. In so far this argument pertains to the new grounds of rejection, this argument is not found convincing. As the rejection of the previous Office Action, and the one below, clearly shows, Moisan teaches a structure that reads on being a launching structure. Applicant has failed to argue against this.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23, 24, 31, 33, and 37-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the

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applicant has added the limitation that the diameter of the holes is between 10 microns and 1000 microns. The specification lacks support for this range. The specification, on page 5, lines 5-10, only supports the range of 50 microns to 1000 microns

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 24, 31, 33, and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moisan et al. (US 6,224,836) in view of Sogo et al. (US 6,246,301).

Moisan discloses a device for producing a plasma comprising a microwave generator (56) that launches microwaves through a launching structure (structure between generator (56) and flange (26) in figure 6) and into a guide structure (24) having therein holes (38) through which a dielectric tube carrying a gas passes and to which the microwaves are concentrated to form a plasma region in the tube in the area of the holes (38) (see figures 5 and 6 and col. 5, line 1 to col. 7, line 10). The plasma is used to clean exhaust gases, which encompasses chemically reacting gases. Provision of oxygen in the gas is disclosed at col. 6, line 65. A microwave frequency of 2.45 GHZ is disclosed at col. 6, line 29.

The reference does not explicitly teach a hole diameter within the applicant's range. However, Sogo teaches the relationship between the hole diameter a

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susceptance formed thereby in a waveguide and explicitly teaches to experimentally determine the hole diameter such that desired susceptance values are obtained (column 6, lines 35-40). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to experimentally determine the hole diameters. By doing so, one would reap the benefits of controlling the susceptance of the waveguide.

As to claims 40, 41, and 43, Moisan is silent as to the pressure and flow rate of the gas in the tube, and the power of the microwave energy. Because it is well established that "Where principal difference between claimed process and that taught by the reference is a temperature difference, it is incumbent upon applicants to establish criticality of that difference", see *Ex Parte Khusid* 174 USPQ 59 (Bd. of Appeals 1971), and because this principle is clearly applicable other process parameters such as pressure, flow rate, power applied, etc, as is claimed in each of the dependent claims, it would have been obvious to use values for these parameters as claimed absent evidence showing a criticality for using the claimed values.

#### ***Allowable Subject Matter***

Claims 25-28 and 34-36 are allowed.

The following is an examiner's statement of reasons for allowance: Applicant's amendments have overcome the objections of the previous Office Action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Fuller whose telephone number is (571) 272-1420. The examiner can normally be reached on Mondays through Thursdays.

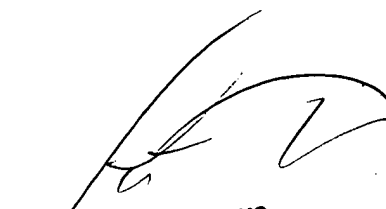
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Meeks, can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EBF



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